

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SOCORRO VIDAL COLIN,
Petitioner,
v.
JUAN TORRIE,
Respondent.

Case No.: 3:16-cv-01403-BEN-AGS

ORDER:

**(1) ADOPTING REPORT AND
RECOMMENDATION;**

**(2) DENYING MOTION TO STAY;
and**

**(3) ORDERING PETITIONER TO
SHOW CAUSE WHY HER
PETITION SHOULD NOT BE
DISMISSED AS UNTIMELY**

Petitioner Socorro Vidal Colin filed a petition for writ of habeas corpus under 28 U.S.C. § 2254 on June 8, 2016. (Docket No. 1). Subsequently, on June 13, 2016, the Honorable Ruben B. Brooks issued a notice regarding possible dismissal of Petitioner's petition for failure to exhaust state court remedies. (Docket No. 2). Petitioner then filed a motion to stay the federal proceedings while she returns to state court to exhaust the unexhausted claims. (Docket No. 4). Respondent filed an opposition, but Petitioner chose not to reply.

1 On December 23, 2016, the Honorable Andrew G. Schopler issued a Report and
 2 Recommendation recommending denial of Petitioner's motion to stay and issuance of an
 3 order to show cause why Petitioner's petition should not be dismissed as untimely.
 4 (Docket No. 12). "Within 14 days after being served with a copy of the recommended
 5 disposition, a party may serve and file written objections to the proposed findings and
 6 recommendations." Fed. R. Civ. P. 72(b)(2); *see also* 28 U.S.C. § 636(b)(1). The
 7 deadline to object has now passed, and neither party has filed any objections. For reasons
 8 that follow, the Report and Recommendation is **ADOPTED**.

9 A district judge "may accept, reject, or modify the recommended disposition" of a
 10 magistrate judge on a dispositive matter. Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C.
 11 § 636(b)(1). "[T]he district judge must determine de novo any part of the [report and
 12 recommendation] that has been properly objected to." Fed. R. Civ. P. 72(b)(3).
 13 However, "[t]he statute makes it clear that the district judge must review the magistrate
 14 judge's findings and recommendations de novo *if objection is made*, but not otherwise."
 15 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also*
 16 *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005). "Neither the Constitution nor
 17 the statute requires a district judge to review, de novo, findings and recommendations
 18 that the parties themselves accept as correct." *Reyna-Tapia*, 328 F.3d at 1121.

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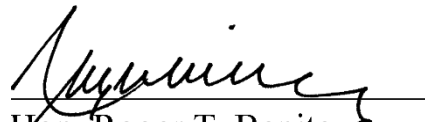
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1 The Court has considered and agrees with the Report and Recommendation. The
2 Court **ADOPTS** the Report and Recommendation. (Docket No. 12). Petitioner's motion
3 to stay is **DENIED**. (Docket No. 4). *See Blake v. Baker*, 745 F.3d 977, 981-82 (9th Cir.
4 2014) (“[R]outinely granting stays would undermine the AEDPA’s goals of encouraging
5 finality and streamlining federal habeas proceedings.”).

6 For the reasons discussed in the Report and Recommendation, Petitioner is
7 **ORDERED TO SHOW CAUSE** why her petition should not be dismissed as untimely.
8 A response to the order to show cause is due by **March 6, 2017**.

9 **IT IS SO ORDERED.**

10 Dated: January 27, 2017

11 
12 Hon. Roger T. Benitez
13 United States District Judge
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